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Attorney Docket No.: 016770-002721US

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On March 12, 2004

TOWNSEND and TOWNSEND and CREW LLP

By: Connie Larn

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OFFICE OF PETITIONS

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Yehuda Ivri et al.

Application No.: 09/551,408

Filed: April 18, 2000

For: METHODS AND APPARATUS  
FOR STORING CHEMICAL  
COMPOUNDS IN A PORTABLE  
INHALER

Customer No.: 20350

Confirmation No. 2446

Examiner: Glenn K. Dawson

Technology Center/Art Unit: 3761

AMENDMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed May 5, 2003 in connection with the subject application. In the Office Action, the Examiner indicated that the Reply filed on February 5, 2003 was not fully responsive to the prior Office Action because it did not specifically point out the patentable subject matter of the new claims. Although the Applicants believe that the added claims were distinguishing by reciting that "These claims should be allowed because the cited references do not disclose the claimed the invention, as well as the reasons outlined above with respect to claims 40-43," set forth below are additional reasons why the added claims 44-56 are distinguishable.

With respect to independent claim 44, an apparatus is claimed having a plurality of tapered apertures in a vibratable element that is substantially comprised of a palladium-nickel alloy. The combination of Ivri, Gueret and Marks, and Ivri, Gueret and Abys fail to teach or suggest this limitation. More specifically, the Abys patent describes an electroplating method to produce surface characteristics such as corrosion resistance and bondability. However, the Abys patent does not suggest the production of a vibratory apertured element that is substantially comprised of a palladium-nickel alloy, but rather for coating a substance to provide surface characteristics.

The Marks patent provides turbulence inducing channels at a rear surface and tapers the outlet nozzles outwardly rather than being tapered to narrow from the liquid receiving face to the aerosol emission face as claimed in claim 44. Hence, claim 44 is distinguishable over the cited references for at least this additional reason. Claims 45-49 depend from claim 44 and are distinguishable over the cited art for at least the reasons given in connection with claim 44.

Independent claim 50 claims an apparatus for delivering aerosolized droplets of fluid to the respiratory system of the user. The apertured element has a plurality of tapered apertures that taper from wide to narrow in the direction from the liquid receiving face to the aerosol emission face. Hence, claim 50 is distinguishable over the combination of Ivri, Gueret and Marks for the reasons previously described in connection with independent claim 44. Also, claim 50 recites that the vibratory apertured element comprises an element comprised of a palladium-nickel alloy, with the apertures having a diameter of between about 1 micron and about 6 microns at the aerosol emission face. As previously described in connection with claim 44, the Abys patent discloses an electroplating method that places a coating on a substrate. Hence, the combination Ivri, Gueret and Abys fails to disclose an element that is comprised of the palladium-nickel alloy with apertures having the claimed dimension. Hence, independent claim 50 and dependent claims 51-56 are distinguishable over the cited art for at least these reasons.

Appl. No. 09/551,408  
Amdt. dated March 12, 2004  
Reply to Office Action of May 5, 2003

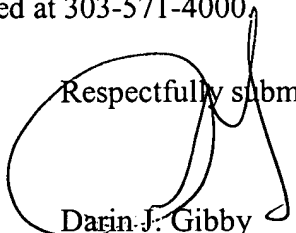
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

  
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